

WATER ALLOCATION PROGRAM DEVELOPMENT WATER RIGHTS SUBCOMMITTEE MEETING

MINUTES OF MEETING January 9, 2003

Members Present:

Dale Thompson
Al Bettencourt
Brian Bishop
Christopher D'Ovidio
John Garry
Paul Ryan
Jon Schock
Katherine Wallace
Wendy Waller
Andrew Dzyicewicz
Bekah Rotterberg

WRB Staff Present

Connie McGreavy

Members Absent:

Terry Tierney
Kendra Beaver
Fred Crosby
Peter Dennehy
John Killoy
Caroline Karp
Mary Ellen McCabe
Rebecca Partington
Ken Payne
Greg Schultz
John Spirito
Kathy Crawley

I. CALL TO ORDER:

After an introduction around the table, with a quorum present, Dale Thompson called the meeting to order at 2:15 PM.

II. APPROVAL OF MINUTES:

On a motion by Al Bettencourt, seconded by Dale Thompson, the minutes, in their new summary format, of the December 5, 2002 meeting were approved.

III. ITEMS FOR ACTION:

A) Mission Statement (see discussion)

1. add "existing" regulatory framework
2. add "in the United States and Rhode Island, in particular"
3. add "and identify any inconsistencies in this process" at end

IV. ITEMS FOR DISCUSSION:

A) Review Mission Summary

The two primary tasks listed in the mission statement are 1) to review the existing rights structure and determine what to progress to; and 2) to clarify the regulatory framework with different agencies dealing with quality, quantity and supply. The second part deals with the organizational diagram showing the integration possibilities, on which Caroline Karp is currently working to present to the Committee.

The group discussed their [dis]satisfaction with this mission statement. Members brought up the Regulated Riparian Model code and the fact that it has been thoroughly revised, yet no state appears to have adopted it in its entirety. Both Georgia (see handout) and Connecticut have recently gone through a similar process of revising and adjusting the Code accordingly for their state mission statements. Here, the members agreed to:

1. add “in the United States and Rhode Island, in particular” in the first sentence;
2. add ‘clarify “existing” regulatory framework’
3. add “and identify any inconsistencies in this process” at end

It was agreed that compliance was inherent in ‘Regulatory’, therefore, it would be redundant. One member also suggested the order of the tasks be reversed; however, it was decided that the majority of this committee’s efforts were going towards the first task. So, the order should remain the same.

The conversation remained on the complexity of the mission statement. The common law does not always work with statutory regulations, but the charge of this subcommittee does not include that overarching process. This committee understands and now agrees to stay focused on the issue of existing rights, potential regulation and priority listing. This committee is responsible for providing recommendations for the water management structure to allocate water. Other subcommittees will be looking to us.

B) Task List: Decisions on what we will do, what we will not do, and who will be leading

The group then discussed the individual tasks list. Some members of the group felt the list was too much and/or too burdensome at this point and that dealing with each and every listed task would slow the process down. The committee agrees that the first priority is to get the organizational diagram completed and then focus on the details such as wastewater afterwards. Other tasks were delegated as follows:

- Diagram: revises and circulates to participants who plug in agency with jurisdiction; relevant laws, statutes, regulations, local ordinance or agreement; use references provided earlier; determine which water rights and regulations contribute to functional water management; determine which water rights and regulations contribute to dysfunctional water management – *Caroline Karp & Katherine Wallace*
- Deeded flow rights & conflicting case law – *Greg Schultz & Paul Ryan*
- Clarify the extent of the Public Trust Doctrine in terms of water rights; discussion & summary of PTD is needed; Research relevant case law and RIAG advisory opinions on PTD, groundwater, standard riparian rights and ownership; Scituate Reservoir– *John Garry, Caroline Karp & Christopher D’Ovidio*
- Research interstate water transfer agreements was broadened to include interstate or out-of-basin rights ONLY if they are allowed; consider rules for “exchanges” in water use – *John Garry & Terry Tierney*
- Review RI Public Laws regarding public supply districts and agreements related to general framework; discussion on State limiting or restricting stream release in times of emergency; local disputes afterwards; utility agreements; civil issues – *John Schock*
- Prepare a taxonomy of “reasonableness”; priority uses dealing with the character of use; alternatives to riparian rights; should you be able to be granted a permit in the first place; when restricted, what priorities should be set within ‘reasonable use’? – *Brian Bishop*
- Investigate mining regulations, if any (water withdrawal and disposal) – *Caroline Karp*

- Review RIGL for agricultural exemptions Assignment of Regulated Riparian Code Leads [focus on role of rights] – *Al Bettencourt*

C) Discussion about Presentation later this Month

Dale Thompson and Connie McGreavy moved to defer the group presentation scheduled for January 30, 2003 until a later date. The group agreed. The committee would like to review the diagram and fine-tune the mission statement and task list prior to presentation.

V. OTHER BUSINESS:

The next meeting was scheduled for 1:00 P.M. on February 6, 2003.

VI. ADJOURNMENT:

On a motion by Al Bettencourt, seconded by Connie McGreavy, the meeting adjourned at 4:00 PM.

Respectfully submitted,

Dale Thompson
Roger Williams School of Law

Connie McGreavy
RI Water Resources Board

**Note: For more information on Water Allocation, visit: <http://www.seagrant.gso.uri.edu/scc/wrb/index.html>.*